

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN ASSEMBLY JUNE 27, 2005

AMENDED IN ASSEMBLY JUNE 16, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 150

Introduced by Senator Escutia

February 7, 2005

An act to amend Section 791.10 of the Insurance Code, relating to insurance underwriting.

LEGISLATIVE COUNSEL'S DIGEST

SB 150, as amended, Escutia. Insurance: adverse underwriting decisions.

Existing law requires that, in the event of an adverse underwriting decision, as defined, the insurance institution or agent responsible for the decision comply with certain requirements, including a requirement to either provide the consumer with the specific reasons for the adverse underwriting decision in writing or advise the person that upon written request he or she may receive the specific reasons in writing. ~~Existing law requires the institution or agent, upon receipt of a written request, to provide the consumer with the specific items of personal and privileged information that support those reasons, except as specified.~~

~~This bill would require the insurance institution or agent to provide the reasons for the adverse underwriting decision in all instances~~ *provide that, as of July 1, 2006, with respect to a declination, cancellation, or nonrenewal of an individual homeowners', auto, life,*

health, or disability insurance policy, the insurance institution or agent responsible for the decision shall provide the specific reason or reasons in writing at the time of the decision, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 791.10 of the Insurance Code is*
2 *amended to read:*

3 791.10. (a) In the event of an adverse underwriting decision
4 the insurance institution or agent responsible for the decision
5 shall:

6 (1) Either provide the applicant, policyholder, or individual
7 proposed for coverage with the specific reason or reasons for the
8 adverse underwriting decision in writing or, *except as provided*
9 *in subdivision (e)*, ~~advise such~~ the person that upon written
10 request he or she may receive the specific reason or reasons in
11 writing.

12 (2) Provide the applicant, policyholder or individual proposed
13 for coverage with a summary of the rights established under
14 subdivision (b) and Sections 791.08 and 791.09.

15 (b) Upon receipt of a written request within 90 business days
16 from the date of the mailing of notice or other communication of
17 an adverse underwriting decision to an applicant, policyholder or
18 individual proposed for coverage, the insurance institution or
19 agent shall furnish to such person within 21 business days from
20 the date of receipt of such written request:

21 (1) The specific reason or reasons for the adverse underwriting
22 decision, in writing, if such information was not initially
23 furnished in writing pursuant to paragraph (1) of subdivision (a).

24 (2) The specific items of personal and privileged information
25 that support those reasons; provided, however:

26 (A) The insurance institution or agent shall not be required to
27 furnish specific items of privileged information if it has a
28 reasonable suspicion, based upon specific information available
29 for review by the commissioner, that the applicant, policyholder
30 or individual proposed for coverage has engaged in criminal
31 activity, fraud, material misrepresentation or material
32 nondisclosure.

(B) Specific items of medical record information supplied by a medical care institution or medical professional shall be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the individual prefers.

Mental health record information shall be supplied directly to the individual, pursuant to this subdivision, only with the approval of the qualified professional person with treatment responsibility for the condition to which the information relates.

(3) The names and addresses of the institutional sources that supplied the specific items of information given pursuant to paragraph (2) of subdivision (b); provided, however, that the identity of any medical professional or medical care institution shall be disclosed either directly to the individual or to the designated medical professional, whichever the individual prefers.

(c) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

(d) When an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights required by subdivision (a) or (e) may be given orally to the extent that such information is available.

(e) Except as provided in subdivision (d), with respect to a declination, cancellation, or nonrenewal of a property insurance policy covered by Section 675 or an automobile insurance policy covered by Section 660, or an individual life, health, or disability insurance policy, the insurance institution or agent responsible for the decision shall provide the specific reason or reasons in writing at the time of the decision. The communication of medical record information for a life or health insurance policy shall be subject to the disclosure requirements of subparagraph (B) of paragraph (2) of subdivision (a). This subdivision shall become operative on July 1, 2006.

~~SECTION 1. Section 791.10 of the Insurance Code is amended to read:~~

~~791.10. (a) In the event of an adverse underwriting decision the insurance institution or agent responsible for the decision~~

1 shall provide the applicant, policyholder, or individual proposed
2 for coverage, in writing, at the time that the adverse action is
3 communicated, with each of the following:

4 (1) The specific reason or reasons for the adverse underwriting
5 decision.

6 (2) A summary of the rights established under Sections 791.08
7 and 791.09.

8 (3) The specific items of personal and privileged information
9 that support the reason or reasons for the adverse underwriting
10 decision; provided, however:

11 (A) The insurance institution or agent shall not be required to
12 furnish specific items of privileged information if it has a
13 reasonable suspicion, based upon specific information available
14 for review by the commissioner, that the applicant, policyholder
15 or individual proposed for coverage has engaged in criminal
16 activity, fraud, material misrepresentation or material
17 nondisclosure.

18 (B) Specific items of medical record information supplied by a
19 medical care institution or medical professional shall be
20 disclosed either directly to the individual about whom the
21 information relates or to a medical professional designated by the
22 individual and licensed to provide medical care with respect to
23 the condition to which the information relates, whichever the
24 individual prefers.

25 Mental health record information shall be supplied directly to
26 the individual, pursuant to this subdivision, only with the
27 approval of the qualified professional person with treatment
28 responsibility for the condition to which the information relates.

29 (4) The names and addresses of the institutional sources that
30 supplied the specific items of information given pursuant to
31 paragraph (3); provided, however, that the identity of any
32 medical professional or medical care institution shall be
33 disclosed either directly to the individual or to the designated
34 medical professional, whichever the individual prefers.

35 (b) The obligations imposed by this section upon an insurance
36 institution or agent may be satisfied by another insurance
37 institution or agent authorized to act on its behalf.

38 (c) When an adverse underwriting decision results solely from
39 an oral request or inquiry, the explanation of reasons and

- 1 ~~summary of rights required by subdivision (a) may be given~~
- 2 ~~orally to the extent that such information is available.~~

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